

SOKAOGON CHIPPEWA COMMUNITY WATER QUALITY STANDARDS

Section I Introduction, Authority, Scope, Purpose and Applicability

A. [151.00] Title

This ordinance may be cited as the "Sokaogon Chippewa Water Quality Standards."

B. [151.01] Purpose

The purpose of this ordinance is to protect and maintain life on the Mole Lake Indian Reservation by enacting minimum standards for water on the Reservation. Water is a sacred thing to us, as it has always been to our most revered ancestors, through all time. It has been taught to us by our revered elders that water is sacred. It is our blood. It is the blood of our children and ancestors. It is the life-supporting blood of Mother Earth.

To accomplish these ends, the Sokaogon Chippewa Community Water Quality Standards:

- 1) Identify Tribal Designated Uses and Tribal Existing Uses for which the Tribal Waters of the Sokaogon Chippewa Community Indian Reservation shall be protected; and,
- 2) Prescribe standards and policies to sustain and protect the Tribal Designated and Existing Uses; and,

In addition, the Sokaogon Chippewa Water Quality Standards are intended to:

- 1) Preserve and protect all things within the aquatic community which support the health and welfare, environmental quality, safety, economic security, and ultimately the sovereignty of the Sokaogon Chippewa Community; and,
- 2) Provide for the protection of the aquatic community, fish and wildlife, recreation, cultural, spiritual and religious uses, public water supplies, and other uses.

C. [151.02] Enactment Authority

The Sokaogon Chippewa Community is a federally-recognized Band (Mole Lake Band of the Lake Superior Tribe of Chippewa Indians) of Native Americans recognized and organized pursuant to the Indian Reorganization Act (25 U.S.C. 476 et seq.) of 1934. Pursuant to regulatory power delegated to it by the federal government under sections 518 and 303 of the Clean Water Act of 1972, as amended, (hereinafter the "Act"), the Tribe hereby enacts the following Sokaogon Chippewa Community Water Quality Standards (WQS) which shall have the scope stated below.

The Tribe is responsible for reviewing, establishing, and revising the WQS. As allowed by section 510 of the Act, the tribe has developed WQS more stringent than required by the Act. Consistent with sections 101(g) and 518(a) of the Act, the WQS shall not be construed to supersede or abrogate rights to quantities of water.

D. [151.03] Contents

The following elements are included in the Tribe's Water Quality Standards:

- 1) Use designations consistent with the Clean Water Act Amendments of 1987.
- 2) Water quality criteria sufficient to protect the designated uses.
- 3) Methods used to support WQS revisions.
- 4) An Antidegradation Policy consistent with the Clean Water Act Amendments of 1987.
- 5) Certification by the Chief Justice of the Sokaogon Chippewa Tribal Court that the WQS were duly adopted pursuant to Tribal law.

E. [151.04] Incorporation by reference

The following authorities are here incorporated by reference:

- 1) Tribal Constitution and act of the Tribal Governing Body. (Resolution 05/30A/94)
- 2) Water Quality Standards Regulation at 40 C.F.R. 131; 48 F.R. 51045, Nov. 8, 1983; Revised through July 1, 1991; (Amended at 56 F.R. 64893, Dec. 12, 1991, Dec. 22, 1992).

- 3) 33 U.S.C. 1251 et seq. (Amended at 56 F.R. 64893, Dec. 12, 1991; 57 F.R. 60910, Dec. 22, 1992).

F. [151.05] Scope

The Sokaogon Chippewa Community Water Quality Standards (WQS) shall apply to all waters upon, under, flowing through or bordering the Sokaogon Chippewa Community Indian Reservation at any and all points in the hydrologic cycle. The WQS shall govern all human activities affecting the Sokaogon Chippewa Community Indian Reservation including, without limitation, agriculture, aquaculture of fish, cranberries, shellfish and other organisms, construction, energy generation and distribution, industry, manufacturing, mining, navigation, silviculture, storm water management, transportation, wastewater disposal, plus domestic and commercial uses and discharges.

G. [151.06] Review and Revision

Tribal review and revision of the WQS shall be conducted in accordance with 40 C.F.R. Part 131.20, as follows;

- 1) **Tribal Review:** The Tribe shall from time to time, but at least once every three years, hold public hearings for the purpose of reviewing applicable water quality standards, and for modifying and adopting standards as necessary.
- 2) **Public Participation:** The Tribe shall hold a public hearing for the purpose of reviewing the WQS in accordance with the provisions of Tribal law, U.S. Environmental Protection Agency's (EPA) water quality management regulation (40 C.F.R. 130.6), and public participation regulation (40 C.F.R. part 25). The proposed water quality standards revision and supporting analyses shall be made available to the public prior to the hearing.
- 3) **Submittal to EPA:** The Tribe shall submit the results of the review, any supporting analyses, the methodologies used for site specific criteria development, any general policies applicable to the WQS, and any revisions of the standard, (if revisions made) to EPA within 30 days of the completion of the review.

Section II Tribal Designated Uses.

A. [151.10] Purpose of Enumerating Tribal Designated Uses.

Tribal Designated Uses are the uses of all Tribal Waters by tribal members, and, ecological functions which support all forms of life associated with tribal waters, that shall be protected by the Sokaogon Chippewa Community WQS.

The Tribal Designated Uses are not intended to describe the religious significance of Tribal Waters, or to identify sacred medicines, organisms and substances that require protection. Those cultural and religious resources known and unknown, shall be protected for all generations so that they may continue to provide for the spiritual integrity of the tribe, in unlimited amount and free from any substance, disease or ecological condition caused by human-made pollution.

The Tribal Designated Uses are also intended to assure that Tribal Waters that flow beyond Sokaogon Chippewa Community Indian Reservation boundaries can physically, biologically and chemically support all lawful activities of humans, including recreation, fishing, navigation, industry, irrigation of crops, grasses and other cultivated plants and animals, cooling and heat storage.

B. [151.11] Uses.

Tribal Designated Uses include the:

- (1) use of all Tribal Waters for cultural, subsistence, spiritual, medicinal, ceremonial, and aesthetic purposes that include any element of the environment that is ecologically associated with Tribal Waters; and,
- (2) use of all Tribal Waters for any organism indigenous to the environment that is ecologically associated with Tribal Waters for the purpose of healthy existence, continued survival and ecological support; and,
- (3) use of all Tribal Waters for the physical, biological and chemical support they provide as habitat and life support for fish, shellfish, birds and other wild and domesticated life.
- (4) use of all Tribal Waters for ecological support of the watershed, wetlands, terrestrial environment, groundwater, precipitation and all other natural functions they may support in the ecosystem at any level; and,

Nothing in this section should be construed as permitting unrestricted use of Tribal Waters prohibited, restricted or regulated by other law.

Section III Tribal Water Quality Standards Criteria.

A. [151.20] Purpose.

As used in this Section, Tribal Water Quality Standards Criteria are definable statements of the ecological condition necessary to fully support Tribal Designated Uses. They establish a positive statement about the condition and health of the ecological conditions that occur within Tribal Waters.

Tribal Water Quality Standards Criteria are based on sound science and may be applied to any parameter, pollutant, toxic pollutant or condition as necessary to protect the Tribal Designated Uses. When needed, on a case-by-case basis, numeric values may be derived for specific pollutants to implement the water quality standards criteria. Numeric values used to implement the water quality standards criteria shall be the more stringent of either EPA's published criteria guidance or measured ambient water quality. Consistent with the Tribe's decision to designate all of its waters as Outstanding Natural Resource Water (ONRW) (see antidegradation section IV) and, given the lack of toxicity data for many aquatic organisms found in Tribal Waters, the uncertainty concerning additive and synergistic effect of pollutants in the environment and the fact that available data indicates that existing water quality is sufficient to support all Tribal Designated Uses, the Tribe believes that, where numeric values are necessary to implement the Tribe's water quality standards criteria, basing those values on the more stringent of either EPA's published criteria guidance or ambient concentration will assure that Tribal Waters continue to be capable of supporting Designated Uses.

B. [151.21] Tribal Water Quality Standards Criteria.

All Tribal Waters shall be free from pollutants in quantities that, either alone or as a result of interaction with other pollutants, cause a Tribal Designated Use to become more difficult to successfully accomplish. Consistent with the Tribal Water Quality Standards Criteria, the following conditions in Tribal Waters are prohibited:

- 1) The presence of pollutants in quantities that result in unnatural turbidity, color, oil films or slicks, floating solids, scum, foams, settleable solids, suspended solids or deposits in Tribal Waters or on the beds of Tribal Waters.

- 2) The presence of pollutants in quantities that result in objectionable taste or odor being imparted to either Tribal Waters or organisms living in it or drinking from it.
- 3) The presence of toxic pollutants in quantities that result in toxicity to aquatic organisms, wildlife, domestic animals or humans.
- 4) The presence of toxic pollutants in quantities that result in bioaccumulation in aquatic organisms leading to toxicity to consumers of the aquatic organisms.
- 5) The presence of pollutants that act as nutrients to plants in quantities that result in the growth of nuisance algae and plants.
- 6) The presence of microorganisms at levels that make recreation in and on Tribal Waters unsafe.
- 7) Releases of pollutants or human-induced changes to Tribal Waters, the sediments of Tribal Waters or area hydrology that alter natural ambient conditions in Tribal Waters such as, without limitation, dissolved oxygen, pH and temperature. Natural daily fluctuations of dissolved oxygen, pH and temperature shall be maintained.
- 8) Releases of pollutants or human-induced changes to Tribal Waters, the sediments of Tribal Waters or area hydrology that result in changes to species composition in Tribal Waters, on the Reservation or in the Ceded Territory. Naturally occurring assemblages of organisms in Tribal Waters shall be maintained.

Section IV Antidegradation Policy.

A. [151.30] Purpose.

The existence of the tribe has been dependent on the ability of the land and waters of the tribe to provide for basic cultural survival by providing abundant natural resources for consumption, subsistence, cultural preservation, religious practice, sustainable economic development, and sociological health. This Antidegradation Policy provides for the maintenance and protection of Designated and Existing Uses through designating all Tribal Waters as Outstanding National Resource Waters (ONRW).

ONRW protection is for waters that are ecologically significant and of National importance. Tribal Waters are important, unique, and sensitive, both ecologically and

culturally. Traditional scientific measures of water quality are not yet developed to adequately describe the conditions required to support Tribal Designated Uses. Consequently, the Tribe believes that designation of all, Tribal Waters as Outstanding Natural Resource Waters is necessary to maintain the existing high quality of Tribal Waters and protect Tribal Designated Uses.

Tribal Waters are of national significance due to the Trust Responsibility of the United States, associated with the treaties, congressional mandates and sovereign status of tribes. These areas serve as the last refuge for tribal members to continue to practice a life that exemplifies sustainable economic development, and that preserves the resources critical to cultural integrity and survival of the tribe.

Tribal Waters are also of national significance from an ecological perspective in that these areas are internationally unique in supporting a distinct culture with generational attachment through subsistence and cultural practice to the surrounding ecosystem. This relationship between tribal members and the ecological system is sacred and integral to the survival of the tribe. It is the purpose of this policy and the Mole Lake Water Quality Standards to protect Tribal Waters that support this unique relationship to the fullest extent allowable under the Clean Water Act, and to designate these areas as Outstanding National Resource Waters (ONRW).

B. [151.31] Management

1. No human activity may directly or indirectly discharge, release or emit pollutants into Tribal Waters in ONRW areas.
2. All Non-aberrational, indigenous species, and supporting ecological parameters, shall be protected regardless of prevalence, condition or use. The quality of these waters shall be unadulterated. There shall be no signs of ecological stress or impairment.

Section V. [151.40] Definitions.

As used in this ordinance, the following words have the following meanings.

Ambient Conditions, Existing Ambient Conditions - The biological, chemical, and physical conditions of Tribal Waters and all elements ecologically associated with Tribal Waters. The Ambient Conditions will be established through federally approved scientific protocol with the results published annually, or as deemed necessary by the tribe. "Existing Ambient Conditions" are the ambient conditions of Tribal Waters and all elements ecologically associated with Tribal Waters at the time this ordinance is

enacted, as can be best determined by the Tribe, in the administrative discretion of the Tribe and its agencies.

Aquatic Communities - A biological association consisting of all interacting populations of aquatic species, habitat and chemical conditions inhabiting a given area.

Clean Water Act - The Federal Water Pollution Control Act (Public Law 92-500), as amended (33 U.S.C. § 1251 et seq.).

Dissolved Oxygen (DO) - The amount of oxygen dissolved in water. Generally, proportionately higher amounts of oxygen can be dissolved in colder waters than in warmer waters.

Dissolved Solids - Generally associated with freshwater systems, consisting of inorganic salts, small amounts of organic matter, and dissolved material.

Hardness - The concentration of calcium and magnesium ions in water; frequently expressed as mg/l (milligrams per liter) calcium carbonate equivalent.

Outstanding National Resource Water (ONRW) - Waters that are ecologically significant and of National importance.

pH - The negative logarithm of the effective hydrogen-ion concentration. Used to express acidity (values less than 7) and alkalinity (values greater than 7).

Physical Evaluation - In general physical parameters, such as flow, temperature, water depth, velocity, substrate, re-aeration rates, and other factors as used to identify any physical limitations that may preclude the attainment of the designated use.

Pollutant - Any substance, chemical, chemical breakdown product, plus heat, the presence of which in the environment is the direct or indirect result of a human activity.

Pollution - The intentional, reckless, negligent or accidental release into the environment of a pollutant.

Suspended Solids - A descriptive of the organic and inorganic particulate matter in water.

Tribal Water Quality Standards Criteria - Definitions of the ecological condition necessary to fully support Tribal Designated Uses. Tribal Water Quality Standards Criteria establish a positive statement about the condition and health of the ecological conditions that occur within Tribal Waters.

Tribal Waters - All waters upon and under the Sokaogon Chippewa Community reservation at any and all points in the hydrologic cycle as provided by the Clean Water Act.

Tribal Designated Uses - Uses specified for Tribal Waters, whether or not being they are being attained.

Toxic Pollutant - Any pollutant that, when present in sufficient quantities, either by itself or through interactions with other pollutants and/or naturally-occurring substances present in the environment, is or may become harmful to plant life, animal life, or any Tribal Designated Use.

Water Quality - The chemical, biological, and physical integrity of a body of water.

Water Quality Assessment - An evaluation of the condition of a waterbody using biological surveys, chemical specific analyses of pollutants in waterbodies, and toxicity tests.

Wetlands - Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, hydrophytic vegetation typically adapted for life in saturated soil conditions, such as algae and cattails.